

When a retailer allows a purchaser a discount from the selling price on the basis of a discount coupon for which the seller receives no reimbursement, the amount of the discount is not subject to Retailers' Occupation Tax liability. See 86 Ill. Adm. Code 130.2125. (This is a GIL).

June 24, 2004

Dear Xxxxx:

This letter is in response to your letter received by the Department on December 18, 2003, in which you request information. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at [www.ILTAX.com](http://www.ILTAX.com) to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

I have experienced the following problem with the ABC on charging the wrong taxes.  
The following articles are enclosed in this envelope.

- 1) Receipt Dated: 10-28-03 Time: 17:25
- 2) Order Receipt: 10-28-03 for 5 Tacos Time: 17:23
- 3) Coupon for 5 Tacos for \$ 5.99
- 4) Menu from ABC's Taco's

The problem is as follows:

Retail Price	Sale Price that was charged	Sale Price that should of been charged
1.85		
<u>x 5</u>	5 tacos	5 tacos
9.25	5.99	5.99
<u>.62</u> – 6.75%?	<u>.62</u> – 10.4%	<u>.40</u> – 6.75%
\$9.87	\$6.61	\$6.39

The Sale Price that was charged was \$ 6.61 with tax and the Sale Price that should have been charged was \$ 6.39. The difference of \$ .22 which is the problem since ABC's has done this twice to me. If you look at it ABC's has been charging taxes for the retail price and adding that to the sales price. I just want ABC's to charge the right taxes. Please send me a correspondence on what action I can take or who I can contact with this problem of overcharging taxes to the consumer. I told ABC's of the wrong tax charged but was told 'everyone has to pay taxes'. I just want the right taxes charged.

The Retailers' Occupation Tax Act imposes a tax upon persons engaged in the business of selling at retail tangible personal property. See 35 ILCS 120/2. The Use Tax Act imposes a tax upon the privilege of using in this State tangible personal property purchased at retail from a retailer. See 35 ILCS 105/3. These two taxes are complimentary in nature and together are commonly referred to as "sales tax."

The taxation of gross receipts in connection with discount coupons is explained in 86 Ill. Adm. Code 130.2125(b)(1). When a retailer allows a purchaser a discount from the selling price on the basis of a discount coupon for which the seller receives no reimbursement, the amount of the discount is not subject to Retailers' Occupation Tax liability. Conversely, if a retailer allows a purchaser a discount from the selling price on the basis of a coupon for which the retailer will receive full or partial reimbursement from any source, the retailer incurs Retailers' Occupation Tax liability on the receipts received from the purchaser and the amount of the coupon reimbursement. The Retailers' Occupation Tax imposes tax on all gross receipts received from sales, regardless of the source of those gross receipts.

While the issuer of the coupon, as a technical proposition, is the party incurring tax on the value of the coupon, it is generally the case that the use of the coupon is conditioned upon the purchaser's payment of that tax. As a result, in that instance, tax is due on all receipts received by the retailer, including tax on the value of the coupon.

In summary, if ABC is being reimbursed for the value of the coupon then Retailers' Occupation Tax liability of 6.25% plus local taxes would be incurred and passed onto the purchaser through the Use Tax. On the other hand, if ABC's is not reimbursed for the value of the coupon through its franchise, manufacturer or otherwise, then you should not be taxed on the regular retail price, but on the actual discount sale price. As stated the rate of tax would be 6.25% plus any applicable local taxes.

I hope this information is helpful. If you require additional information, please visit our website at [www.ILTAX.com](http://www.ILTAX.com) or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Very truly yours,

Edwin E. Boggess  
Associate Counsel

EEB:msk